

Order of Dismissal; Denying Request for Appointment of Counsel  
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1 applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

2 B. Petitioner’s Claims

3 As grounds for federal habeas relief, Petitioner alleges that the Board violated his due  
4 process rights by denying parole based on insufficient evidence that he remains an unreasonable  
5 risk of danger to society if released. However, the Supreme Court has recently made clear that a  
6 prisoner’s federal due process claim regarding a denial of parole is limited to whether he  
7 received the minimum procedures necessary under the federal constitution. *Swarthout v. Cooke*,  
8 No. 10-333, 2011 WL 197627 (U.S. Jan. 24, 2011) (per curiam). Specifically, this Court’s  
9 inquiry is limited to whether Petitioner was given an opportunity to be heard, and given a  
10 statement of reasons for the denial. *Id.* at \*2, citing *Greenholtz v. Inmates of Neb. Penal and*  
11 *Correctional Complex*, 442 U.S. 1, 16 (1979). Thus, Petitioner’s allegations fail to state a  
12 cognizable claim for federal habeas relief. *See id.*

13 **CONCLUSION**

14 Accordingly, this case is DISMISSED for failure to state a claim. In light of the  
15 dismissal, Petitioner’s request for appointment of counsel is DENIED as moot. The Clerk shall  
16 close the file and enter judgment in this matter.

17 **CERTIFICATE OF APPEALABILITY**

18 A certificate of appealability will not issue. Reasonable jurists would not “find the  
19 district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*,  
20 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from the Court of  
21 Appeal.

22 IT IS SO ORDERED.

23 DATED: 2/18/11

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LUCY H. KOH  
United States District Judge